

2. On February 16, 2018, Plaintiff filed her responses in opposition to each of these Motions, and in support of her opposition, provided the affidavits from both “experts” attempting to explain the gaps in both experts proposed opinions, the basis for their opinions, and the “methodology” purportedly used to reach such opinions. (See Affidavit of Rodney Ellis, attached as “Exhibit 1”; Affidavit of Dr. Scott, attached as “Exhibit 2.”)

3. Defendant respectfully submits that these affidavits are little more than late-filed “supplements” to Plaintiff’s expert disclosures, which were due on or before November 20, 2017.

4. Dr. Scott was deposed on January 9, 2018.

5. Ellis was deposed on January 16, 2018.

6. Discovery closed in this matter on January 23, 2018.

7. The Court previously admonished Plaintiff that she would not be permitted to use such “supplementations” to work around the deadlines set by the Court. Plaintiff has already faced one Motion to Compel in this matter based in no small part on her failure to identify and produce what documents and information her experts intended to rely upon in this case.

8. To the extent that these affidavits are nothing more than an attempt to bolster the proposed “experts” reports in this matter and provide information that should have been provided within the scheduling deadlines set by the Court, and the information itself was required to be disclosed previously under both the Uniform Local Rules and Rule 26 of the Federal Rules of Civil Procedure, Defendant submits that these affidavits should be stricken in their entirety and should not be considered by the Court in response to Defendant’s pending motions.

9. In further support of this Motion, Defendant has filed a Memorandum of Law contemporaneously herewith.

WHEREFORE, PREMISES CONSIDERED, for the reasons set forth herein and in the Memorandum in support of this Motion, UPS requests that the Court strike the affidavits of Dr. Ralph Scott and Rodney Ellis in their entirety. Defendant further requests all additional and further relief that the Court deems appropriate under the circumstances.

Respectfully submitted, this the 23rd day of February, 2018

GLASSMAN, WYATT, TUTTLE & COX, P.C.

/s/ Robert A. Cox

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CERTIFICATE OF SERVICE

I hereby certify that a Notice of Service concerning the foregoing pleading was filed via the Court's CM/ECF system, which will electronically transmit a copy of said pleading to all counsel of record. In addition, a copy of this pleading has been forwarded to counsel below via electronic mail:

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On this the 23rd day of February, 2018.

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